

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

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STEPHEN E. (STEVE) DAWSON,  
individually and as Executor of the Estate of  
BRENDA LEA CRABTREE,

Plaintiff,

v.

BANNER LIFE INSURANCE COMPANY  
and STEVEN RAY ROUSSEL, individually  
and d/b/a ROUSSEL AND ASSOCIATES,

Defendant.

Civil Action No. \_\_\_\_\_

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. § 1441(a), *et seq.*, defendant, Banner Life Insurance Company (“Banner”), files this Notice of Removal of this action from State Court to this Court and respectfully states as follows:

1. On October 25, 2007, plaintiff, Stephen E. Dawson (“Dawson”) commenced a civil action in the Circuit Court of Sumner County, Tennessee (“the State Court”), bearing the style *Stephen E. (Steve) Dawson, individually and as Executor of the Estate of Brenda Lea Crabtree v. Banner Life Insurance Company and Steven Ray Roussel, individually and d/b/a Roussel and Associates*, Docket No. 30692-C (“the Civil Action”). The Civil Action is still pending in the State Court.

2. Banner was served with a copy of the Summons and Complaint in the Civil Action on October 29, 2007, and the Summons and Complaint, copies of which are attached as

Exhibit A, constitute all process, pleadings, and orders served upon Banner in the Civil Action to date.

3. Banner has, to date, made no appearance in the Civil Action in State Court.

4. The Civil Action is one of which this Court has diversity of citizenship jurisdiction pursuant to 28 U.S.C. § 1332 and removal jurisdiction pursuant to 28 U.S.C. § 1441 in that:

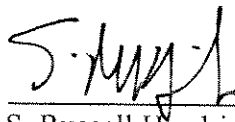
- (a) Dawson, both at the time of filing of the Civil Action and as of the date of filing this Notice, was and is a citizen of the State of Tennessee.
- (b) Banner, both at the time of filing of the Civil Action and as of the date of filing of this Notice, was and is a corporate citizen of the State of Maryland in that it is and was incorporated in the State of Maryland, with its principal place of business in Rockville, Maryland.
- (c) Defendant, Steven Ray Roussel, individually and d/b/a Roussel and Associates ("Roussel"), is improperly joined as a party to the Civil Action to destroy removal and diversity jurisdiction because there is no reasonable basis for this Court to predict that Plaintiff might be able to recover against Roussel under Tennessee law. *See, e.g., Weiss v. State Farm Fire & Cas. Co.*, 107 S.W. 3d 503, 506 (Tenn. Ct. App. 2001)(holding that an insurance agent has no duty to explain a policy to a policyholder, and citing *Quintana v. Tennessee Farmers Mut. Ins. Co.*, 774 S.W. 2d 639 (Tenn. Ct. App. 1989) for the proposition that an insurance agent's obligation to a client ends when the agent obtains the insurance asked for by the client); *Young v. Mountain Life Ins.*, 1989 WL 147501 (Tenn. Ct. App. Dec. 8, 1989)(holding that an insurance agent did not have a duty to inform the client that her husband's credit life insurance policy was not automatically renewable upon renewal of the loan); *Watkins v. HRRW, LLC*, 2006 WL 3327659 at \*8 (M.D. Tenn. Nov. 14, 2006)(holding that insurance agents owe no fiduciary duty to an insured). This Court must, therefore, disregard the citizenship of Roussel in determining whether diversity of citizenship exists among the parties properly joined. *See Coyne v. The American Tobacco Company*, 183 F.3d 488, 493 (6<sup>th</sup> Cir. 1999).
- (d) Diversity of citizenship exists between all parties properly joined in that they are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs; and
- (e) This action is within the original jurisdiction of the Court pursuant to the provisions of 28 U.S.C. § 1332.

5. Banner has filed this Notice prior to the expiration of thirty (30) days following its receipt of a copy of the Complaint.

6. Banner will give written notice to plaintiff and will file a Notice of Filing of Notice of Removal with the Clerk of the Circuit Court of Sumner County, Tennessee. Banner attaches a copy of the Notice of Filing of Notice of Removal as Exhibit B.

WHEREFORE, defendant, Banner Life Insurance Company prays that the Civil Action now pending against it in the Circuit Court of Sumner County, Tennessee, be removed therefrom to this Court.

Respectfully submitted,




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*Attorneys for Defendant,  
Banner Life Insurance Company*

#### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and exact copy of the foregoing document has been forwarded to Stephen W. Grace, attorney for plaintiff, 144 Second Avenue, North, Suite 200, Nashville, TN 37201; and Rick Humbracht, 1600 Division Street, Suite 700, P.O. Box 340025, Nashville, TN 37203, via regular U.S. Mail, this the 27<sup>th</sup> day of November, 2007.



S. Russell Headrick (TN5750)